

then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Holler fails to satisfy this rigorous standard.

Holler describes resource reservation for establishing end-to-end quality of service in a digital communication system without resource reservation signaling over the radio access bearer. The resource reservation protocol signaling on the IP level over the radio access interface is eliminated, and a gatekeeper in the access network assumes the role of a resource reservation protocol proxy on behalf of the mobile terminal.

Claim 1 recites a method implemented in a mobile terminal. The mobile terminal “send[s] a request message associated with the multimedia session *to the access point* requesting a packet access bearer between the mobile terminal and the access point.” The mobile terminal then “set[s] an indicator in the request message indicating that the access point should function as a communications protocol proxy for the mobile terminal for a media data stream of the multimedia session.”

The Examiner argues that the terminal 605 sets such an indicator in the TerminalCapabilitySet message. But the Examiner has overlooked the fact that the TerminalCapabilitySet message is sent to the gatekeeper 609—not *to the access point* 603 as recited in claim 1. In claim 1, the mobile terminal sends the request message to the access point asking it to set up a packet access bearer between the mobile and the access point. But the gatekeeper 609, which receives the TerminalCapabilitySet message as shown in Figure 8, is not asked to set up a packet access bearer between the mobile and the gatekeeper 609. Instead, Figure 8 at the bottom shows that the packet access bearer is established between the mobile and the access point 603. Paragraph 0100 explains the access bearer set up being initiated by the mobile terminal on the link layer (not the IP layer where the RSVP messaging occurs) with the

access point 603. Holler does not describes the gatekeeper 609 receiving a message from the mobile requesting a packet access bearer between the mobile terminal and the access point.

Lacking this feature, the anticipation rejection is improper and should be withdrawn.

Applicants also point out that the purpose of the TerminalCapabilitySet message in Holler is not to request a radio access bearer for a media data stream in a multimedia session. Indeed, the TerminalCapabilitySet messages 802 give no indication to an addressee to function as a protocol proxy. To the contrary, message 802 indicates that no resource reservation should be performed. See 0096 lines 7-12: "In the capability exchange signalling, the terminal 605 indicates in the TerminalCapabilitySet message, which is to be sent towards the end node 608, that quality of service not is going to be used since the terminal 605 is told to not use its resource reservation capabilities."

Similar claim language missing from Holler is recited in independent claims 8, 18, 25, and 38. Lacking a feature required by these claims and the claims that depend on them, the anticipation rejection of those claims should be withdrawn.

Claims 35-38 stand rejected under 35 U.S.C. §103 based on commonly-assigned US Patent Application 2001/0026554 to Holler et al in view of newly-applied USP 6,658,011 to Sevanto. This rejection is respectfully traversed.

Holler and the instant application are commonly assigned to Telefonaktiebolaget LM Ericsson. Indeed, the subject matter of Holler and the claimed invention were, at the time the invention was made, owned by Telefonaktiebolaget LM Ericsson or subject to an obligation of assignment to Telefonaktiebolaget LM Ericsson. Consequently, Holler is unavailable as prior art. See 35 U.S.C. §103(c).

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Even if Holler were available as prior art, the text in Sevanto relied on by the Examiner merely discloses that PDP contexts exists. But that text does not teach the content of the PDP context activation message specifically recited in claim 35.

The application is now in condition for allowance. An early notice to that effect is requested.

Respectfully submitted,

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